

REMARKS

The present application has been reviewed in light of the Final Office Action mailed December 12, 2007. Applicants respectfully traverse the Examiner's rejections. Claims 1-30 are pending in the application. Reconsideration of the present application is respectfully requested in view of the following remarks.

Claims 1-7, 11, 13-20, 22 and 26-29 were rejected under 35 U.S.C. 103(a), as being obvious over U.S. Patent No. 3,653,389 to Shannon (hereinafter, "Shannon") in view of U.S. Patent No. 3,363,628 to Wood (hereinafter, "Wood"). According to the Examiner, Shannon discloses the invention substantially as claimed, except for the jaws defining a channel oriented substantially along a respective longitudinal axis thereof. The Examiner relies on Wood to teach the modification of the jaw member in this manner.

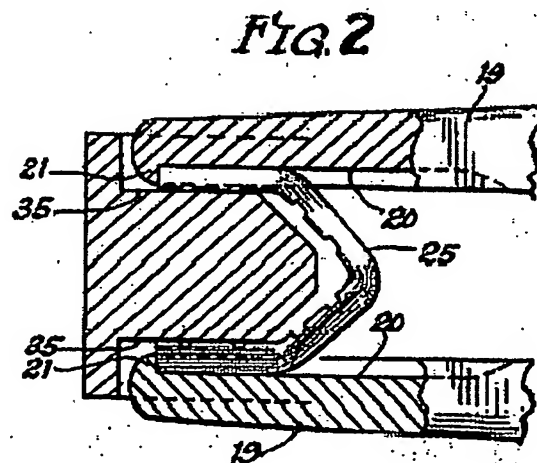
Applicant respectfully submits that each of independent claims 1, 15, 22 and 26, as amended herein, is allowable over Shannon in view of Wood because Shannon in view of Wood fails to disclose or suggest all the elements of independent claims 1, 15, 22, and 26.

Each of independent claims 1, 15, 22 and 26 recite, *inter alia*, a jaw blade for use in a surgical clip applier, each jaw defining a channel oriented substantially along a respective longitudinal axis thereof, the channels including at least one of an open proximal end and an open distal end.

As seen in FIGS. 3, 3a and 4-9, of the present disclosure, jaw blade 100 includes a pair of legs 102a, 102b each having a jaw 104a, 104b, respectively, wherein each jaw 104a, 104b defines a

respective recess 112a, 112b formed in opposed surfaces thereof and extending substantially in a longitudinal direction thereof. Each of recess 112a, 112b includes at least one of an open proximal end and an open distal end.

In contrast, and with reference to FIG. 2, reproduced hereinbelow, Wood discloses jaw members 19 including longitudinal grooves 20 having closed proximal ends and closed distal ends. Specifically, jaw members 19 include ridges 21 for preventing the clip from sliding from grooves 20. The configuration of jaws 19 prevent groove 20 from having anything other than a closed proximal end. Applicant respectfully submits that Wood fails to cure the deficiencies of Shannon in that Wood fails to show, teach or disclose a channel including at least one of an open proximal end and an open distal end, as recited in each of independent claims 1, 15, 22 and 26. Accordingly, in view of the foregoing, Applicant respectfully submits that each of independent claims 1, 15 and 26 is not obvious under 35 U.S.C. § 103(a) over Shannon in view of Wood.



Since claims 2-7, 11, 13 and 14 depend, directly or indirectly, from claim 1, and since claims 16-20 depend, directly or indirectly, from claim 15, and since claims 27-29 depend, directly and indirectly, from claim 26, for at least the reasons presented above for the patentability of claims 1, 15 and 26, Applicant respectfully submits that claims 2-7, 11, 13, 16-20 and 27-29 are also patentable over Shannon in view of Wood.

Claims 1, 8, 12, 15, 17, 21, 26, 27 and 30 were rejected under 35 U.S.C. 103(a), as being obvious over U.S. Patent No. 3,140,715 to Whitton, Jr. et al. (hereinafter, "Whitton, Jr.") in view of Wood. According to the Examiner, Whitton Jr. discloses the invention substantially as claimed, except for the jaws defining a channel oriented substantially along a respective longitudinal axis thereof. The Examiner relies on Wood to teach the modification of the jaw members in this manner.

Applicant respectfully submits that each of independent claims 1, 15, and 26, as amended herein, is allowable over Whitton Jr. in view of Wood because Whitton Jr. in view of Wood fails to disclose or suggest all the element of independent claims 1, 15, and 26.

Each of independent claims 1, 15 and 26 recites, *inter alia*, a jaw blade for use in a surgical clip applier, each jaw defining a channel oriented substantially along a respective longitudinal axis thereof, the channels including at least one of an open proximal end and an open distal end, wherein the channels are configured to receive a surgical clip.

As discussed above, Wood fails to show, teach or disclose a channel including at least one of an open proximal end and an open distal end, as recited in each of independent claims 1, 15 and 26.

Accordingly, Applicant respectfully submits that each of independent claims 1, 15 and 26 is not obvious under 35 U.S.C. § 103(b) over Whitton, Jr. in view of Wood.

Since claim 12 depends from claim 1, and since claim 17 depends from claim 15, and since claims 27 and 30 depend, directly and indirectly, from claim 26, for at least the reasons presented above for the patentability of claims 1, 15 and 26, Applicant respectfully submits that claims 12, 17, 27 and 30 are also patentable over Whitton, Jr. in view of Wood.

Claims 1, 3, 9, 10 and 22-24 were rejected under 35 U.S.C. § 103(a), as being obvious over U.S. Patent No. 4,318,313 to Tartaglia (hereinafter, "Tartaglia") in view of Wood. According to the Examiner, Tartaglia discloses the invention substantially as claimed, except for the jaws defining a channel oriented substantially along a respective longitudinal axis thereof. The Examiner again relies on Wood to teach the modification of the jaw member in this manner.

Applicant respectfully submits that each of independent claims 1 and 22, as amended herein, is allowable over Tartaglia in view of Wood because Tartaglia in view of Wood fails to disclose or suggest all the elements of the independent claims 1, 22, and 25. The rejection is respectfully traversed.

Applicant respectfully submits that Tartaglia in view of Wood fails to show, teach or disclose a channel formed in and extending substantially along a respective longitudinal axis thereof, the channels including at least one of an open proximal end and an open distal end, as recited in each of independent claims 1 and 22. Accordingly, in view of the foregoing, Applicant respectfully submits

that each of independent claims 1 and 22 is not obvious under 35 U.S.C. § 103(a) over Tartaglia in view of Wood.

Since claims 3, 9 and 10 depend, directly or indirectly, from claim 1, and since claims 23 and 24 depend, directly or indirectly, for at least the reasons presented above for the patentability of claims 1 and 22, Applicant respectfully submits that claims 3, 9, 10, 23 and 24 are also patentable over Tartaglia in view of Wood.

Claim 25 was rejected under 35 U.S.C. §103(a) as being unpatentable over Wood in view of Shannon. Applicant respectfully submits that claim 25 is allowable over Wood in view of Shannon because Wood taken in any proper combination with Shannon fails to render claim 25 obvious.

As mentioned above, claim 25 recites, *inter alia*, a method for applying surgical clips and performing blunt dissection of tissue, comprising the steps of providing a surgical clip applier for applying surgical clips, which surgical clip applier includes a jaw blade having a first leg and a second leg, each of the first and second legs having a jaw integrally connected thereto and extending distally therefrom, each jaw defining a channel oriented substantially along a respective longitudinal axis thereof, the channels including at least one of an open proximal end and an open distal end.

As discussed above, Shannon, taken in any proper combination with Wood fails to show, teach or disclose a surgical clip applier including jaws each defining a channel oriented substantially along a respective longitudinal axis thereof, the channels including at least one of an open distal end and an open proximal end. Accordingly, in view of the foregoing, Applicant respectfully submits

that claim 25, as amended herein, is not obvious under 35 U.S.C. 103(a) over Wood in view of Shannon.

Although Applicant has amended the claims to overcome the Examiner's rejections, Applicant respectfully submits that the cited references disclosing plastic tweezers for removing sutures, handling dressing and holding cotton to swab areas of a patient (Shannon, column 1, lines 11-13) are non-analogous to surgical clip applicators for applying surgical clips and should not have been applied against the current application. One of ordinary skill in the art of surgical clip applicators would not look to the art of plastic tweezers to solve a problem related to surgical clip applicators. A statement that modifications of the prior art to meet the claimed invention would have been "well within the ordinary skill of the art at the time the claimed invention was made" because the references relied upon teach that all aspects of the claimed invention were individually known in the art is not sufficient to establish a *prima facie* case of obviousness without some objective reason to combine the teachings of the references. *Ex parte Levengood*, 28 USPQ2d 1300 (Bd. Pat. App. & Inter. 1993). "[R]ejections on obviousness cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness." *KSR*, 550 U.S. at ___, 82 USPQ2d at 1396 quoting *In re Kahn*, 441 F.3d 977, 988, 78 USPQ2d 1329, 1336 (Fed. Cir. 2006). MPEP § 2143.01(IV).

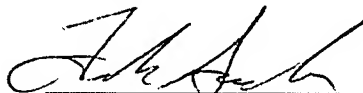
In view of the foregoing amendments and remarks, Applicant respectfully submits that each of the rejections of the claims in the present Office Action has been overcome because each of the references cited fails to disclose and/or suggest the present invention, as claimed.

Should the Examiner believe that a telephone interview may facilitate prosecution of this application, the Examiner is respectfully requested to telephone Applicants' undersigned representative at the number indicated below.

Please charge any deficiency as well as any other fee(s) that may become due under 37 C.F.R. § 1.16 and/or 1.17 at any time during the pendency of this application, or credit any overpayment of such fee(s), to Deposit Account No. 21-0550.

In view of the foregoing amendments and remarks, reconsideration of the application and allowance of all pending claims is earnestly solicited.

Respectfully submitted,



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